

DRAFT MINUTES HEARING OFFICER August 20, 2018

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

STUDY SESSION 4:30 PM

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Principal Planner
Lee Jimenez, Senior Planner
Dalton Guerra, Planner I
Brittainy Nelson, Administrative Assistant I

There were 3 interested citizens present at the study session.

- Staff and Hearing Officer discussed overview of the scheduled cases

REGULAR SESSION 5:00 PM

Present:

There were 7 interested citizens present at the regular session.

Meeting convened at 5:00 PM and was called to order by Vanessa MacDonald. They stated that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) calendar days, by September 4, 2018 at 3:00 PM, to the Community Development Department.

1. The following was noted:

- **Agenda Item No. 1**

August 7, 2018 Hearing Officer Minutes

Vanessa MacDonald, Hearing Officer, stated that the August 7, 2018 Hearing Officer Minutes had been reviewed and were approved.

2. Request abatement of public nuisance items at the **CADILLAC PROPERTIES PROPERTY** located at 2307 E. Manhattan Drive. The applicant is the City of Tempe (**CE180617**).

Mr. Michael Glab, Code Inspector, gave the following presentation:

- The abatement is for several issues on the property
- The violation has been open since Early Feb
- Mid-March received contact from the property owner said that he does intend to comply
- April some of the issues where addressed grass and weeds to the north side of the parcel remained
- In June owner informed the inspector that he did not want the hearing to take place
- Asking for a 180-day open abatement period

Ms. MacDonald asked if the property owner is present.

Ms. MacDonald asked if there was a member of the public that would like to speak.

Ms. MacDonald stated that no hands went up.

Ms. MacDonald stated that it was unchanged when she drove by to see it as well.

Ms. MacDonald Approved the open 180-day abatement.

3. Request abatement of public nuisance items at the **KENTON BROWN PROPERTY** located at 1208 W. Malibu Drive. The applicant is the City of Tempe (**CE180523**).

Mr. Andres Lara-Reyes, Code Inspector, gave the following presentation:

- The property has been in violation since Jan 30, 2018
- The violations were for trash and general debris in the front and backyard area
- Issued a citation show minimum improvements
- Asking for a 180-day open abatement

Ms. MacDonald asked if the property owner is present.

Ms. MacDonald asked if there was a member of the public that would like to speak.

Ms. MacDonald stated that no hands went up.

Ms. MacDonald stated that it was unchanged when she drove by to see it as well.

Ms. MacDonald Approved the open 180-day abatement.

4. Request abatement of public nuisance items at the **ALDRIDGE PROPERTY** located at 738 W. 13th Street. The applicant is the City of Tempe **(CE179220)**.

Mr. Andres Lara-Reyes, Code Inspector, gave the following presentation:

- The property has been in violation since December 28, 2017
- The violations were for trash, litter and debris in the yard
- Issued citations no improvements
- Spoke with property owner Shannon and she rented a roll off and it has been sitting there for three months but nothing has been done

Ms. MacDonald stated that she noticed with each of the abatement cases were given ample time.

Mr. Lara-Reyes stated that citations have been issued and extensions also to bring the property into compliance

Ms. MacDonald stated that we like to error on the side of fairness.

Ms. MacDonald asked if the property owner is present.

Ms. MacDonald asked if there was a member of the public that would like to speak.

Ms. MacDonald stated that no hands went up.

Ms. MacDonald stated that it was unchanged when she drove by to see it as well.

Ms. MacDonald Approved the open 180-day abatement.

5. Request two (2) Use Permits to allow for a second story addition to a single-family residential home and to provide required parking in the front yard setback for the **LEE RESIDENCE**, located at 221 East 14th Street. The applicant is Michael Underhill. **(PL180167)**

CONTINUED FROM THE JULY 17, 2018 AGENDA

Lee Jimenez, Senior Planner, gave the following presentation:

- The LEE RESIDENCE (PL180167) is located on Lot 12 of the University Park Addition subdivision, situated on the south side of East 14th Street, two lots west of South Normal Avenue within the R1-6, Single-Family Residential District.
- At the hearing held on July 17, 2018 the Hearing Officer continued the items to allow the applicant an opportunity revise the design based on public and staff input.
- The applicant, Michael Underhill, is proposing a 1,690 square-foot (building area) two-story addition to the existing 1,007 square-foot home, and demolition of an 875 square-foot carport and old addition. The new addition will provide approximately 2,498 square-feet of new living space; 4,380 square-feet altogether.
- When the project is complete, the residence will consist of five bedrooms, four and a quarter bathrooms, a living room, family room, library, study, and a workshop/garage. A new designated parking area is proposed for one vehicle within the front yard building setback on the west end of the front yard.
- To date, staff has four public inquiries, two in opposition and two in support. Those in opposition cite concern about the possibility of individually leasing rooms in the future and accessing garage from a narrow alley adjacent to a ditch.
- Based on the information provided by the applicant, the public input received, and the analysis provided in the staff report, staff supports approval of the requested use permit and believes the request meets the required approval criteria and will conform to the recommended conditions in the staff report.

Ms. Macdonald asked if Lee Jimenez had changed his recommendation from the previous staff report where Mr. Jimenez recommended denial.

Mr. Jimenez stated that is correct but with the redesign he spoke with the historic preservation officer the replacement of the drive way, the additional landscaping, reintroducing flood irrigation to the property would help bring back some of the historic look to the original lot. Also relocating the driveway to the west end while providing a double strip driveway with turf in between brings back the classic look.

Ms. Macdonald stated that she likes to point out when the staff is being flexible as well the applicant.

Michael Underhill was there to present the case.

Mr. Underhill stated that there was one stipulation that he wanted to discuss. The condition where it talks about the existing openings in the front of the house and how are to be maintained.

Mr. Jimenez stated that the intent was to keep the windows and door openings in the general area. But the conditions leave room for flexibility.

Mr. Underhill stated that it produces a little bit of a difficulty. He requested that the conditions be changed to keeping the historic character but not restrict them to the openings.

Ms. MacDonald stated that she likes the way that it looks. She would like to craft the stipulation to tie it to the elevation that was presented.

Mr. Jimenez stated that he has no issue with that and that we could delete the condition #4.

Ms. MacDonald agreed that we can delete condition #4. And that the plans shown today will be covered by condition #2.

Ms. MacDonald asked if there is anyone in the public that would like to speak.

Ms. MacDonald said that there was no show of hands and that she would like to read for the public record a letter from Mr. Jose. It generally states that he feels that Mr. Underhill should be held to the same standards as he was. However, the codes have changed in the last ten years, so it is appropriate to apply a different standard. She also received an email from a Jay Minsker he addressed his concerns by reaching out to the property owner and his concerns have been address as well and he is satisfied.

Ms. MacDonald noted that this request meets the criteria of the Zoning and Development Code, Section 6-309 D, Use Permit Criteria (in italics):

1. *Any significant increase in vehicular or pedestrian traffic*; Ms. MacDonald stated that this would not create an increase in vehicular or pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; Ms. MacDonald did not believe that the project would create a nuisance from any of the items listed.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan*; Ms. MacDonald did not believe that this project would deteriorate the neighborhood or downgrade property values
4. *Compatibility with existing surrounding structures and uses*; Ms. MacDonald did believe that the structure would be compatible with existing structures. She also noted that other similar projects have taken place in the neighborhood setting a precedent.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; Ms. MacDonald did believe that the property owners would have adequate control of behavior.

DECISION:

Ms. MacDonald Approved the Use Permit (ZUP180061 / ZUP180062) to allow a single story, single-family residence to add a second story addition and allow required parking in the required front yard building setback **LEE RESIDENCE**, located at 221 East 14th Street subject to the assigned Conditions of Approval as follows:

ZUP180061

1. The Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. The floor plan shall be limited to three (3) master suites (bedrooms with either a full or three-quarter bathroom).
4. ~~The north elevation of the original house shall maintain the location of all original windows and door openings along the north elevation. Expansion of window and door frames is permitted.~~ **DELETED BY HEARING OFFICER**
5. To help mitigate privacy for both this and adjacent property, the west elevation shall be modified to provide clerestory windows on the second floor. The proposed full-length windows may only remain with opaque glazing.
6. Ingress and egress to the new addition shall be maintained internally through the original house as shown on the floor plans. Doors shall not be used to separate the original house from the new addition.

ZUP180062

1. The Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. Parking within the required front yard building setback shall be provided on a double-strip driveway with turf landscaped in between strips for a single vehicle.

6. Request a Use Permit to allow a tobacco retailer (vape shop) for **BLUE DRAGON VAPOR**, located at 6473 South Rural Road. The applicants are Tracey M. Moore and David A. Barno. **(PL170384)**

Lee Jimenez, Senior Planner, gave the following presentation:

- BLUE DRAGON VAPOR (PL170384) operates a vape shop in a shopping plaza located on the southeast corner of East Guadalupe Road and South Rural Road within the PCC-1, Planned Commercial Center Neighborhood District.
- Pursuant to the Zoning & Development Code, tobacco retailers shall not be located on a lot within one thousand three hundred twenty (1,320) feet, measured by a straight line in any direction, from the lot line of a charter school, private school, or public school which provides elementary or secondary education. The subject vape shop is sited on a lot located approximately two hundred ten (210) feet from Gethsemane Lutheran School, and one thousand four (1,004) feet from Marcos De Niza High School.
- On February 6, 2018, the Hearing Officer denied the Variance request by BLUE DRAGON VAPOR to reduce the use separation requirement for a tobacco retailer from one thousand three hundred twenty (1,320) feet to two hundred ten (210) feet. Since the Variance was denied, no action was taken on the concurrent use permit application to allow a tobacco retailer (vape shop).

- Subsequently, on February 13, 2018, an Appeal to the Hearing Officer's decision to deny the Variance was filed by BLUE DRAGON VAPOR. On March 28, 2018, the Board of Adjustment continued the Appeal to the May 23, 2018 meeting where ultimately the Appeal was approved; thus, overturning the Hearing Officer's decision to deny the Variance.
- The applicants are returning to the Hearing Officer to request action on the Use Permit application to operate a vape shop.
- To date, no public input has been received by staff.
- Based on the information provided by the applicant, the public input received, and the analysis provided in the staff report, staff supports approval of the requested use permit and believes the request meets the required approval criteria and will conform to the recommended conditions in the staff report.

Ms. MacDonald stated that she understands the history and that she is aware that she is only there to hear on the use permit.

Ms. MacDonald ask if the applicant was here and would please come forward.

Ms. MacDonald asked if the applicant Ms. Moore had a chance to read and understand the conditions of approval.

Ms. Moore stated that she has read the previous staff reports.

Mr. Jimenez stated that there was a change to the report and that they added the condition and he gave a copy to the applicant

Ms. Moore stated that she was in understanding that the in order for them to get the use permit that David or herself would keep the business as Blue Dragon Vapor or if they sold the business to a third party then they would keep the name Blue Vapor and follow the same procedures that they have set in place.

Ms. MacDonald stated that she does not have any further questions of Ms. Moore at this time and asked if there was a member of the public that would like to speak on agenda item number 5.

Ms. MacDonald welcomed Darlene Justus to the microphone.

Ms. Justus stated that we have the separation rules for a reason and that in Tempe they are considering not selling cigarettes to youth under 21. Vape is not fully vetted with all the chemicals and how many chemicals make up the scents and flavors. She is surprised that board of adjustments sent this back. She is a grandparent has three grown children and eight grandchildren that are all older. And that this is going to set a precedence that other business can ignore the quarter mile separation.

Ms. MacDonald stated just to clarify that she mentioned before this was a two-prong variance and that the Board of Adjustments approved the appeal and that the dangling use permit was never heard till today, so the separation requirement was already settled by the Board of Adjustments.

Ms. MacDonald asked if there was any other member of the public that would like to speak on agenda item number 5. She said that I do not see any other white cards.

Ms. MacDonald noted that this request meets the criteria of the Zoning and Development Code, Section 6-309 D, Use Permit Criteria (in italics):

1. *Any significant increase in vehicular or pedestrian traffic*; Ms. MacDonald stated that this would not create an increase in vehicular or pedestrian traffic.

2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; Ms. MacDonald did not believe that the project would create a nuisance from any of the items listed.

3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan;* Ms. MacDonald did not believe that this project would deteriorate the neighborhood or downgrade property values

4. *Compatibility with existing surrounding structures and uses;* Ms. MacDonald did believe that the structure would be compatible with existing structures. She also noted that other similar projects have taken place in the neighborhood setting a precedent.

5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public;* Ms. MacDonald did believe that the property owners would have adequate control of behavior.

DECISION:

Ms. MacDonald Approved the Use Permit (ZUP180083) to allow a tobacco retailer for **BLUE DRAGON VAPOR**, located at 6473 South Rural Road, subject to the assigned Conditions of Approval as follows:

1. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the Use Permit becoming effective. Since consumption of vape products will be permitted on the premises, the owner/management is responsible to adhere to the city Adopted International Mechanical Code.
3. All required State, County and Municipal permits or licenses shall be obtained, or the Use Permit is void.
4. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
5. This use shall not violate the City of Tempe Smoke Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
6. Any intensification or expansion of use shall require a new Use Permit.
7. Live entertainment requires a separate Use Permit.
8. An occupancy inspection and clearance from the Tempe Fire Department shall be obtained prior to the use permit becoming effective.
9. Hours of operation to end no later than twelve o'clock midnight (12:00 a.m.) on a daily basis.
10. The Use Permit is only valid for BLUE DRAGON VAPOR (PL170384).

7. Request a Use Permit to allow an increase on the maximum height of walls or fences in a required front yard setback from four-feet (4'-0") to six-feet (6'-0") for **THE COMMONS ON LEMON**, located at 1215 East Lemon Street. The applicant is Bret Nuttall of Maverick Gates. (PL180196)

Lee Jimenez, Senior Planner, gave the following presentation:

- THE COMMONS ON LEMON (PL180196) is a residential condominium development located on the south side of East Lemon Street between South Stanley Place and South Mariana Street in the R-3, Multi-Family Residential District.
- The applicant, Bret Nuttall of Maverick Gates is proposing to top-off an existing four-foot (4'-0") high screen wall with two-feet (2'-0") of metal picket fencing.
- To date, one public inquiry was received. Initially, the inquirer thought a solid wall was being proposed; however, after informing him that the fence would consist of metal pickets on top of the existing masonry, the inquirers had no concerns.
- Based on the information provided by the applicant, the public input received, and the analysis provided in the staff report, staff supports approval of the requested use permit and believes the request meets the required approval criteria and will conform to the recommended conditions in the staff report.

Bret Nuttall was present to present the case.

Ms. MacDonald asked if there was anything that Mr. Nuttall wanted to add to what Mr. Jimenez said.

Mr. Nuttall informed Ms. MacDonald that he has read and understand the conditions of approval.

Ms. MacDonald asked if the public would like to speak on agenda item #7

Ms. MacDonald noted that this request meets the criteria of the Zoning and Development Code, Section 6-309 D, Use Permit Criteria (in italics):

1. *Any significant increase in vehicular or pedestrian traffic*; Ms. MacDonald stated that this would not create an increase in vehicular or pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; Ms. MacDonald did not believe that the project would create a nuisance from any of the items listed.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan*; Ms. MacDonald did not believe that this project would deteriorate the neighborhood or downgrade property values
4. *Compatibility with existing surrounding structures and uses*; Ms. MacDonald did believe that the structure would be compatible with existing structures. She also noted that other similar projects have taken place in the neighborhood setting a precedent.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; Ms. MacDonald did believe that the property owners would have adequate control of behavior.

DECISION:

Ms. MacDonald Approved the Use Permit (ZUP180075) to allow increase on the maximum height of walls or fences in a required front yard setback from four-feet (4'-0") to six-feet (6'-0") for **THE COMMONS ON LEMON**, located at 1215 East Lemon Street subject to the assigned Conditions of Approval as follows:

1. The Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. This project shall follow requirements of ZDC Part 4, Chapter 8, Lighting, unless otherwise conditioned.
4. Exterior pedestrian pathways and adjacent landscape areas within twenty (20) feet of the pathway shall be illuminated from dusk to dawn with one-half (0.5) foot-candle of light at finish grade. Pedestrian gates shall be illuminated from dusk to dawn with a minimum of five (5) foot-candles, and a minimum of two (2) foot-candles within a fifteen (15) foot radius.

8. Request a Use Permit to allow required parking in the required front yard building setback for the **JOHNSON RESIDENCE**, located at 934 East Loma Vista Drive. The applicant is Charles Johnson of CJW Development, LLC. **(PL180201)**

Dalton Guerra, Planner I, gave the following presentation:

- The Johnson Residence is located on lot 5 of the Hughes Acres Subdivision located east of South Rural Road and south of East Broadway Road in the R1-6 Single Family Residential District.
- The applicant is proposing to convert the existing garage to livable space and request a Use Permit to relocate the required off-street parking to the front yard setback.
- To date, staff has received one email and one phone call inquiring about the project. There is concern about how large the driveway will be in the front yard and rentals in the neighborhood.
- Based on the information provided by the applicant, the public input received, and the analysis provided in the staff report, staff supports this request and believes that the application meets the required criteria and will conform to the conditions provided in the staff report.

Charles Johnson and Joe Worth was present to represent the case.

Ms. MacDonald asked if Mr. Johnson had a chance to read and understand the conditions of approval.

Mr. Johnson stated that he does realize that he needs to get a building permit and he is working with the building department.

Ms. Macdonald stated that if there is any intensification or expanse they are required to come back or if anyone complains about the property they must come back, and they are tied to the plans in the application including the diagram that was submitted in the hearing.

Ms. MacDonald asked if anyone in the public would like to speak on agenda item #9.

Ms. Macdonald stated that she received an email earlier today and their concern was the amount of rental conversions in the neighborhood. Her only thing is that rentals are allowed in the City of Tempe. She understands the concern, but it is not applicable.

Ms. MacDonald noted that this request meets the criteria of the Zoning and Development Code, Section 6-309 D, Use Permit Criteria (in italics):

1. *Any significant increase in vehicular or pedestrian traffic*; Ms. MacDonald stated that this would not create an increase in vehicular or pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; Ms. MacDonald did not believe that the project would create a nuisance from any of the items listed.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan*; Ms. MacDonald did not believe that this project would deteriorate the neighborhood or downgrade property values
4. *Compatibility with existing surrounding structures and uses*; Ms. MacDonald did believe that the structure would be compatible with existing structures. She also noted that other similar projects have taken place in the neighborhood setting a precedent.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; Ms. MacDonald did believe that the property owners would have adequate control of behavior.

DECISION:

Ms. MacDonald Approved the Use Permit (ZUP180080) to allow required parking in the required front yard setback for **JOHNSON RESIDENCE** located at 934 East Loma Vista Drive, subject to the assigned Conditions of Approval as follows:

1. The Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained, or the Use Permit is void.
4. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
5. Any intensification or expansion of use shall require a new Use Permit.

9. Request a Use Permit to allow entertainment as an accessory use for **ROLLING HILLS GOLF COURSE**, located at 1415 North Mill Avenue. The applicant is Craig Hayton of the City of Tempe. (PL180207)

Lee Jimenez, Senior Planner, gave the following presentation:

- ROLLING HILLS GOLF COURSE (PL180207) is an 18-hole executive golf course located on the east side of North Mill Avenue, North of East Curry Road in the AG, Agricultural District and within the RSOD, Rio Salado Overlay District.
- The applicant, Craig Hayton of the City of Tempe, is requesting a Use Permit to allow entertainment as an accessory use to the golf course.
- The entertainment will take place indoors and outdoors and consist of acoustic and amplified bands, DJs, karaoke, and dancing.
- The areas where the entertainment will take place are inside the restaurant and outside on the patio and adjacent grassy areas.
- To date, no public comments has been received by staff.
- Based on the information provided by the applicant, the public input received, and the analysis provided in the staff report, staff supports approval of the requested use permit and believes the request meets the required approval criteria and will conform to the recommended conditions in the staff report.

Craig Hayton was present to represent the case.

Ms. MacDonald asked what is driving the application.

Mr. Hayton stated that they want to utilize throughout the day to also be accessible in the evening hours both in the restaurant, patio area and some of the green areas as well to highlight the beauty of the area, and to use it as a community space and diversify.

Ms. MacDonald went over the hours in which the golf course will be able to operate for entertainment uses.

Ms. MacDonald invited Darlene Justus up to speak.

Ms. Justus stated that she is happy that there is something more that is going to be done with Rolling Hills. She asked that in the conditions of approval if it could state that 12pm on weekends and Sunday through Thursday it says 10pm during the week. The security plan should be developed with different types of events. It is different when you have a small karaoke versus a teen program and to look beyond just the building security. The third point was how intense the lighting was going to be on the sign and to please make sure that the public has impute on that request as well. That the decorative light be down lighting because they are right next to the Botanical Garden and the Zoo. Last thing was about the decibel limits. When they have big events are they going to have decibel limits.

Ms. MacDonald asked that Mr. Hayton come back up to address the concerns that Ms. Justus gave.

Mr. Hayton stated that he anticipated that it would be inside of the restaurant like other golf courses around the valley and on the back patio. They do not have a goal of having large concerts at the site. If they did, they would go through the special events process that already exist with the City of Tempe. And he certainly wants to make sure that they cater a security plan with the police department. He does plan to keep with the current requirements that exist with the City of Phoenix which already calls for down lighting. He does want to be a good neighbor.

Ms. MacDonald stated that it would be beneficial for them to come back in a year and see how things are going.

Mr. Hayton said that he agrees because it would be a good checks and balance and he is willing to do that.

Ms. MacDonald asked if anyone in the public would like to speak on agenda item #10.

Ms. MacDonald noted that this request meets the criteria of the Zoning and Development Code, Section 6-309 D, Use Permit Criteria (in italics):

1. *Any significant increase in vehicular or pedestrian traffic*; Ms. MacDonald stated that this would not create an increase in vehicular or pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; Ms. MacDonald did not believe that the project would create a nuisance from any of the items listed.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan*; Ms. MacDonald did not believe that this project would deteriorate the neighborhood or downgrade property values
4. *Compatibility with existing surrounding structures and uses*; Ms. MacDonald did believe that the structure would be compatible with existing structures. She also noted that other similar projects have taken place in the neighborhood setting a precedent.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; Ms. MacDonald did believe that the property owners would have adequate control of behavior.

DECISION:

Ms. MacDonald Approved the Use Permit (ZUP180082) to allow entertainment as an accessory use to a golf course facility (indoor/outdoor DJ, acoustic/amplified bands, karaoke, and dancing). for **ROLLING HILLS GOLF COURSE**, located at 1415 North Mill Avenue, subject to the assigned Conditions of Approval as follows:

1. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
2. All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained, or the Use Permit is void.
3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
4. Any intensification or expansion of use shall require a new Use Permit.
5. Live entertainment to cease at midnight (12:00 a.m.), daily.
6. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days of this approval. Contact 480-858-6409 before September 19, 2018.
7. Return to the Hearing Officer for review of compliance with conditions of approval within twelve (12) months. The timing for the twelve month review period to commence begins when the business is in full operation. Advise Community Development staff when in full business operation. If the full business activity is not initiated within one year the use permit will lapse. **ADDED BY HEARING OFFICER**

10. Request a Use Permit to allow vehicle rentals (moving trucks/trailers) for **QUICK & EASY SHELL**, located at 7602 South McClintock Drive. The applicant is Kim Gill of N.K. Petroleum, LLC. (PL180013)
CONTINUED FROM THE AUGUST 7, 2018 AGENDA

Lee Jimenez, Senior Planner, gave the following presentation:

- Quick & Easy Shell operates a convenience store and gas station on the southwest corner of East Elliot Road and South McClintock Drive in the PCC-1, Planned Commercial Center Neighborhood District.
- The applicant, Kim Gill of N.K. Petroleum, LLC, is requesting a use permit to add a moving truck/trailer rental service ancillary to the primary use. This request is the result of a code violation for operating a vehicle rental facility without a proper use permit. Ms. Gill is rectifying the violation by processing this use permit application.
- At the hearing held on August 7, 2018, the Hearing Officer continued this application to the August 20, 2018 Hearing Officer agenda due to the absence of the applicant.
- To date, staff has received one (1) public inquiry from a resident who lives in the neighborhood adjacent to the shopping center. He expressed concern that the proposed use will not add value the area, citing that such uses provide unwanted appearance and are not suitable within neighborhood-level commercial centers. Furthermore, he noted that there are other major U-Haul facilities further west on Elliot Road and another on Ray Road. After reviewing the staff report, he suggests that a 6-month review of compliance be conditioned if the use permit is approved.
- Based on the information provided by the applicant, the public input received, and the analysis provided in the staff report, staff supports approval of the requested use permit and believes the request meets the required approval criteria and will conform to the recommended conditions in the staff report.

Ms. MacDonald requested that Mr. Jimenez point out where the stalls will be located.

Kim Gill was present to represent the case.

Ms. MacDonald asked if Ms. Gill had a chance to read and understand the conditions of approval.

Ms. Gill stated that she understood.

Ms. MacDonald asked if anyone in the public would like to speak on agenda item #11.

Ms. MacDonald noted that this request meets the criteria of the Zoning and Development Code, Section 6-309 D, Use Permit Criteria (in italics):

1. *Any significant increase in vehicular or pedestrian traffic*; Ms. MacDonald stated that this would not create an increase in vehicular or pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; Ms. MacDonald did not believe that the project would create a nuisance from any of the items listed.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan*; Ms. MacDonald did not believe that this project would deteriorate the neighborhood or downgrade property values
4. *Compatibility with existing surrounding structures and uses*; Ms. MacDonald did believe that the structure would be compatible with existing structures. She also noted that other similar projects have taken place in the neighborhood setting a precedent.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; Ms. MacDonald did believe that the property owners would have adequate control of behavior.

DECISION:

Ms. MacDonald Approved the Use Permit (ZUP180018) to allow vehicle rentals (moving trucks/trailers) for **QUICK & EASY**, located at 7602 South McClintock Drive, subject to the assigned Conditions of Approval as follows:

1. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
2. All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained or the Use Permit is void.
3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
4. Any intensification or expansion of use shall require a new Use Permit.
5. The rental fleet shall only be parked within conforming parking stalls located along the south side yard area. At no time should rental trucks/trailers block drive aisles and driveways.
6. The maximum number of rental vehicles/trailers parked on-site shall not exceed six (6).
7. The rental fleet shall be limited to vehicles/trailers with a maximum length of twenty-seven (27) feet.

ANNOUNCEMENTS

- Vanessa McDonald noted that the next Hearing Officer public hearing is scheduled for Tuesday, September 4, 2018 at 5:00 PM with a study session scheduled for 4:30 PM.
- Mr. Steve Abrahamson, Principal Planner, noted the following:
 - He would like to welcome aboard Brittainy Nelson our new administrative assistant.

With no further business, the public hearing adjourned at 6:02 PM.

Prepared by: Brittainy Nelson
Reviewed by: Steve Abrahamson

Steve Abrahamson, Principal Planner
For Vanessa MacDonald, Hearing Officer

SA: bn